

(1) The expenditure is made on or after January 1 of the year immediately following the last Presidential election year;

(2) With respect to the goods or services involved, the candidate accepted or received them, requested or suggested their provision, was materially involved in the decision to provide them, or was involved in substantial discussions about their provision; and

(3) The goods or services are—

(i) Polling expenses for determining the favorability, name recognition, or relative support level of the candidate involved;

(ii) Compensation paid to employees, consultants, or vendors for services rendered in connection with establishing and staffing offices in States where Presidential primaries, caucuses, or preference polls are to be held, other than offices in the candidate's home state and in or near the District of Columbia;

(iii) Administrative expenses, including rent, utilities, office supplies and equipment, in connection with establishing and staffing offices in States where Presidential primaries, caucuses, or preference polls are to be held, other than offices in the candidate's home state and in or near the District of Columbia; or

(iv) Expenses of individuals seeking to become delegates in the Presidential nomination process.

(b) Notwithstanding paragraph (a) of this section, if the candidate, through an authorized committee, reimburses the multicandidate political committee within 30 days of becoming a candidate, the payment shall not be deemed an in-kind contribution for either entity, and the reimbursement shall be an expenditure and a qualified campaign expense of the candidate.

[68 FR 47419, Aug. 8, 2003]

§ 9034.11 Winding down costs.

(a) *Winding down costs.* *Winding down costs* are costs associated with the termination of political activity related to a candidate's seeking his or her nomination for election, such as the costs of complying with the post election requirements of the Federal Election Campaign Act and the Presidential Primary Matching Payment

Account Act, and other necessary administrative costs associated with winding down the campaign, including office space rental, staff salaries, and office supplies. Winding down costs are qualified campaign expenses.

(b) *Winding down limitation.* The total amount of winding down costs that may be paid for, in whole or part, with matching funds shall not exceed the lesser of:

(1) 10% of the overall expenditure limitation pursuant to 11 CFR 9035.1; or

(2) 10% of the total of:

(i) The candidate's expenditures subject to the overall expenditure limitation as of the candidate's date of ineligibility; plus

(ii) The candidate's expenses exempt from the expenditure limitations as of the candidate's date of ineligibility; except that

(iii) The winding down limitation shall be no less than \$100,000.

(c) *Allocation of primary and general election winding down costs.* A candidate who runs in both the primary and general election may divide winding down expenses between his or her primary and general election committees using any reasonable allocation method. An allocation method is reasonable if it divides the total winding down costs between the primary and general election committees and results in no less than one third of total winding down costs allocated to each committee. A candidate may demonstrate that an allocation method is reasonable even if either the primary or the general election committee is allocated less than one third of total winding down costs.

(d) *Primary winding down costs during the general election period.* A primary election candidate who does not run in the general election may receive and use matching funds for these purposes either after he or she has notified the Commission in writing of his or her withdrawal from the campaign for nomination or after the date of the party's nominating convention, if he or she has not withdrawn before the convention. A primary election candidate who runs in the general election, regardless of whether the candidate receives public funds for the general election, must wait until 31 days after the general election before using any

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matching funds for winding down costs related to the primary election. No expenses incurred by a primary election candidate who runs in the general election prior to 31 days after the general election shall be considered primary winding down costs.

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PART 9035—EXPENDITURE LIMITATIONS

Sec.

9035.1 Campaign expenditure limitation; compliance and fundraising exemptions.

9035.2 Limitation on expenditures from personal or family funds.

9035.3 Contributions to and expenditures by Vice Presidential candidates.

AUTHORITY: 26 U.S.C. 9035 and 9039(b).

SOURCE: 56 FR 35491, July 29, 1991, unless otherwise noted.

§ 9035.1 Campaign expenditure limitation; compliance and fundraising exemptions.

(a) *Spending limit.* (1) No candidate or his or her authorized committee(s) shall knowingly incur expenditures in connection with the candidate's campaign for nomination, which expenditures, in the aggregate, exceed \$10,000,000 (as adjusted under 2 U.S.C. 441a(c)), except that the aggregate expenditures by a candidate in any one State shall not exceed the greater of: 16 cents (as adjusted under 2 U.S.C. 441a(c)) multiplied by the voting age population of the State (as certified under 2 U.S.C. 441a(e)); or \$200,000 (as adjusted under 2 U.S.C. 441a(c)).

(2) The Commission will calculate the amount of expenditures attributable to the overall expenditure limit or to a particular state using the full amounts originally charged for goods and services rendered to the committee and not the amounts for which such obligations were settled and paid, unless the committee can demonstrate that the lower amount paid reflects a reasonable settlement of a bona fide dispute with the creditor.

(3) In addition to expenditures made by a candidate or the candidate's authorized committee(s) using campaign funds, the Commission will attribute to the candidate's overall expenditure limitation and to the expenditure limi-

tations of particular states under 11 CFR 110.8 the total amount of all:

(i) Coordinated expenditures under 11 CFR 109.20;

(ii) Coordinated communications under 11 CFR 109.21 that are in-kind contributions received or accepted by the candidate, the candidate's authorized committee(s), or agents, under 11 CFR 109.21(b);

(iii) Coordinated party expenditures, including party coordinated communications pursuant to 11 CFR 109.37 that are in-kind contributions received or accepted by the candidate, the candidate's authorized committee(s), or agents under 11 CFR 109.37(a)(3), and that exceed the coordinated party expenditure limitation for the Presidential general election at 11 CFR 109.32(a); and

(iv) Other in-kind contributions received or accepted by the candidate or the candidate's authorized committee(s) or agents.

(4) The amount of each in-kind contribution attributed to the expenditure limitations under this section is the usual and normal charge for the goods or services provided to the candidate or the candidate's authorized committee(s) as an in-kind contribution.

(b) *Allocation of expenditures.* Each candidate receiving or expecting to receive matching funds under this subchapter shall also allocate his or her expenditures in accordance with the provisions of 11 CFR 106.2.

(c) *Compliance, fundraising and short-fall bridge loan exemptions.* (1) A candidate may exclude from the overall expenditure limitation set forth in paragraph (a) of this section an amount equal to 15% of the overall expenditure limitation as exempt legal and accounting compliance costs under 11 CFR 100.146. In the case of a candidate who does not run in the general election, for purposes of the expenditure limitations set forth in this section, 100% of salary, overhead and computer expenses incurred after a candidate's date of ineligibility may be treated as exempt legal and accounting compliance expenses beginning with the first full reporting period after the candidate's date of ineligibility. Candidates who continue to campaign or re-establish eligibility may not treat